

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of SIAMAK AKHLAGHI and U.S. POSTAL SERVICE,  
POST OFFICE, City of Industry, Calif.

*Docket No. 96-2420; Submitted on the Record;  
Issued July 8, 1998*

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DECISION and ORDER

Before DAVID S. GERSON, WILLIE T.C. THOMAS,  
A. PETER KANJORSKI

The issue is whether appellant met his burden of proof to establish that he sustained an eye injury in the performance of duty.

The Board has duly reviewed the case record in the present appeal and finds that the case is not in posture for decision due to a conflict in the medical evidence.

An employee seeking benefits under the Federal Employees' Compensation Act<sup>1</sup> has the burden of establishing the essential elements of his or her claim including the fact that the individual is an "employee of the United States" within the meaning of the Act, that the claim was timely filed within the applicable time limitation period of the Act, that an injury was sustained in the performance of duty as alleged and that any disability and/or specific condition for which compensation is claimed are causally related to the employment injury.<sup>2</sup> These are the essential elements of each compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.<sup>3</sup>

To establish that an injury was sustained in the performance of duty in an occupational disease claim, a claimant must submit the following: (1) medical evidence establishing the presence or existence of the disease or condition for which compensation is claimed; (2) a factual statement identifying employment factors alleged to have caused or contributed to the presence or occurrence of the disease or condition; and (3) medical evidence establishing that the employment factors identified by the claimant were the proximate cause of the condition for which compensation is claimed or, stated differently, medical evidence establishing that the

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<sup>1</sup> 5 U.S.C. §§ 8101-8193.

<sup>2</sup> *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

<sup>3</sup> *See Delores C. Ellyett*, 41 ECAB 992, 994 (1990); *Ruthie M. Evans*, 41 ECAB 416, 423-25 (1990).

diagnosed condition is causally related to the employment factors identified by the claimant. The medical evidence required to establish a causal relationship is rationalized medical opinion evidence. Rationalized medical opinion evidence is medical evidence which includes a physician's rationalized opinion on the issue of whether there is a causal relationship between the claimant's diagnosed condition and the implicated employment factors. The opinion of the physician must be based on a complete factual and medical background of the claimant, must be one of reasonable medical certainty, and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the specific employment factors identified by the claimant.<sup>4</sup>

In the present case, appellant alleged that he sustained retinal pigment epithelial detachment and central serous retinopathy due to stress at work. The Office of Workers' Compensation Programs accepted that appellant's working the night shift at the employing establishment constituted a compensable employment factor. The Office properly determined that other claimed employment factors, such as a denial of a request to change work hours, heavy work load and inadequate lighting, were not established as employment factors.<sup>5</sup> By decision dated June 8, 1995, the Office denied appellant's claim on the grounds that he did not submit sufficient medical evidence in support thereof and, by decisions dated September 29, 1995 and May 6, 1996, the office denied modification of its June 8, 1995 decision.

Section 8123(a) of the Act provides in pertinent part: "If there is disagreement between the physician making the examination for the United States and the physician of the employee, the Secretary shall appoint a third physician who shall make an examination."<sup>6</sup> When there are opposing reports of virtually equal weight and rationale, the case must be referred to an impartial medical specialist, pursuant to section 8123(a) of the Act, to resolve the conflict in the medical evidence.<sup>7</sup>

The Board finds that there is a conflict in the medical evidence between the government physician, Dr. Herman L. Rundle, and appellant's physician, Dr. Shahla Abedi, on the issue of whether appellant sustained an employment-related eye injury.<sup>8</sup> In a report dated December 4, 1995, Dr. Abedi indicated that the stress of working on the night shift contributed to appellant's central serous retinopathy. Dr. Abedi indicated that the medical literature clearly showed that stress can cause or aggravate this condition. In a report dated April 17, 1996, Dr. Rundle indicated that appellant's central serous retinopathy was not employment related. He generally indicated that the etiology of this condition is not known, but that "a viral or psychosomatic

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<sup>4</sup> *Victor J. Woodhams*, 41 ECAB 345, 351-52 (1989).

<sup>5</sup> Disability is not covered where it results from such factors as frustration from not being permitted to work in a particular environment or to hold a particular position; see *Thomas D. McEuen*, 41 ECAB 387 (1990), *reaff'd on recon.*, 42 ECAB 566 (1991); *Lillian Cutler*, 28 ECAB 125 (1976). The Office noted that appellant did not establish the factual aspect of his claim that his work load was unusually heavy.

<sup>6</sup> 5 U.S.C. § 8123(a).

<sup>7</sup> *William C. Bush*, 40 ECAB 1064, 1975 (1989).

<sup>8</sup> Both Dr. Rundle and Dr. Abedi are Board-certified ophthalmologists.

cause has often been suspected.” Dr. Rundle noted that there was no proof that stress or excess light was related to central serous retinopathy.

Consequently, the case must be referred to an impartial medical specialist to resolve the conflict in the medical opinion evidence between the government physician, Dr. Rundle, and appellant’s physician, Dr. Abedi, on the issue of whether appellant sustained an employment-related eye injury. On remand the Office should refer appellant, along with the case file and the statement of accepted facts, to an appropriate specialist for an impartial medical evaluation and report including a rationalized opinion on whether appellant sustained an employment-related eye injury. After such further development as the Office deems necessary, the Office should issue an appropriate decision regarding appellant’s claim.

The decisions of the Office of Workers’ Compensation Programs dated May 6, 1996 and September 29, 1995 are set aside and the case remanded to the Office for further proceedings consistent with this decision of the Board.

Dated, Washington, D.C.  
July 8, 1998

David S. Gerson  
Member

Willie T.C. Thomas  
Alternate Member

A. Peter Kanjorski  
Alternate Member